

# Frankfurt Kurnit Klein + Selz PC

Andrew J. Ungberg

488 Madison Avenue, New York, New York 10022

T (212) 705 4868 F (347) 438 2195

aungberg@fkks.com

June 20, 2016

VIA ECF

The Hon. Lorna G. Schofield  
United States District Court  
Southern District of New York  
40 Foley Square, Room 2203  
New York, New York 10007

RE: Laspatha DeCaro Studio Corp. v. Rimowa GmbH, et al., No. 16-cv-0934

Dear Judge Schofield:

We represent plaintiff Laspatha DeCaro Studio Corporation (“LD” or “Plaintiff”) in the above-captioned matter. Together with counsel for defendants Rimowa GmbH, Rimowa Distribution Inc., and Rimowa Inc. (together “Rimowa” or “Defendants”), we respectfully submit this joint status letter pursuant to Rule I.V.2. of Your Honor’s Individual Rules and Procedures for Civil Cases.

## A. Overview of Discovery

To date, LD and Rimowa have exchanged initial disclosures and discovery requests as follows:

- On April 12, 2016, the parties exchanged their initial disclosures. On June 16, 2016, Rimowa provided LD with amended initial disclosures.
- On April 28, 2016, LD served its first request for documents on Rimowa. Rimowa served its responses and objections to these requests on May 31, 2016.
- On May 2, 2016, Rimowa served its first request for documents on LD. LD served its responses and objections to these requests on June 6, 2016.

Since exchanging their respective requests and responses, the Parties conferred regarding a protocol that will govern the exchange of electronically stored information (“ESI”), one which the Parties believe will balance the need for providing detailed metadata against the costs associated with collecting such data and the needs of this litigation. The Parties are also negotiating a proposed protective order and confidentiality agreement to govern the exchange of

The Hon. Lorna G. Schofield  
June 20, 2016  
Page 2 of 3

documents and information through discovery. Although the Parties have not yet reached final agreement on either of these matters, they are confident that they will be able to do so in relatively short order.

At present, both Parties have refrained from producing documents while they negotiate an agreement on the scope of ESI and an appropriate confidentiality agreement. Once these agreements are in place, however, the Parties expect to promptly begin producing documents.

#### **B. Procedural History**

LD commenced this action by filing its complaint on February 8, 2016. Rimowa filed its answer and counterclaims on April 11, 2016, and filed a third-party complaint against Meire GmbH & Co. KG (“Meire”) and Shotview Berlin Photographers Management GmbH (“Shotview”) on April 25, 2016. LD filed its reply to Rimowa’s counterclaims on April 28, 2016. Meire, which resides outside the United States, waived service of Rimowa’s third-party complaint on May 20, 2016; pursuant to Fed. R. Civ. P. 4(d), Meire’s Answer is due on or before August 15, 2016.

The only motions filed in the case to date concern *pro hac vice* admissions:

- On April 25, 2016, Rimowa moved for the *pro hac vice* admission of William E. O’Brien, Esq., which was granted on May 10, 2016.
- On June 10, 2016, Meire moved for the *pro hac vice* admission of Sabrina A. Vayner, Esq. This motion is unopposed and remains pending at present.

#### **C. Compliance with Discovery Deadlines**

As Your Honor noted during the pretrial conference on April 20, 2016, the pending involvement of third-party defendants Meire and Shotview in this litigation might affect the viability of the current discovery schedule. The factual and legal issues to be resolved in this case have expanded since it was originally filed. Rimowa has filed a third-party complaint against Meire and Shotview. Once it reviews Meire and Shotview’s responsive pleadings, LD believes it will need to file additional claims against Rimowa and/or Meire and Shotview based on those filings. Given this, the Parties respectfully submit that the discovery deadlines set in the initial scheduling order may require adjustment, and believe that they will be in a better position to determine what changes may be needed once Meire and Shotview respond to Rimowa’s third-party complaint.

Accordingly, the Parties respectfully propose that the Court set a control date of August 30, 2016, at which point LD and Rimowa will submit another status letter outlining a revised discovery schedule, if needed, for the Court’s consideration. In the meantime, LD and Rimowa

The Hon. Lorna G. Schofield  
June 20, 2016  
Page 3 of 3

intend to finalize the terms of their ESI protocol and confidentiality agreement, and to begin exchanging documents responsive to the requests served to date.

\* \* \* \*

Counsel for LD and Rimowa are available at the Court's convenience to discuss any of the issues discussed above.

Respectfully Submitted,

**Frankfurt Kurnit Klein & Selz P.C.**



Andrew J. Ungberg

*Attorneys for Plaintiff LaSpata DeCaro  
Studio Corporation*

Cc: Delphine Knight Brown, Esq. (via ECF)  
William E. O'Brien, Esq. (via ECF)  
*Attorneys for Defendants Rimowa GmbH,  
Rimowa Distribution Inc., and Rimowa, Inc.*